

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ROBERT LEE CAVINS, JR.,**

**Defendant.**

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**Case No. 05-3095-01-CR-S-RED**

**ORDER**

NOW before the Court are pro se Defendant's Affidavit of Researched Evidence (Doc. 41) and Motion to Dismiss (Doc. 43) and the Government's Responses (Docs. 42, 44). United States Magistrate Judge James C. England entered his Report and Recommendation (Doc. 45), recommending that Defendant's Motion to Dismiss be denied. Defendant has filed no response to the Report and Recommendation and the time period in which to do so has now passed.

Upon review the Court **ADOPTS** and incorporates as its own Opinion and Order the Magistrate's Report and Recommendation. Accordingly, and for the reasons articulated by the Magistrate in the Report and Recommendation (Doc. 45) it is hereby

ORDERED that Defendant's Motion to Dismiss (Doc. 43) is **DENIED**.

**IT IS SO ORDERED.**

DATE: August 30, 2006

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE  
UNITED STATES DISTRICT COURT